

## [CHAPTER 467E] SOCIAL WORKERS

### SECTION

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**§467E-1 Definitions.** As used in this chapter:

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Exempt government employee" means an employee in a social worker position with any federal, state, or county government agency.

"Practice of social work" means applying the formal knowledge base, theoretical concepts, specific functional skills, and essential social values that are used to effect change in human behavior, emotional responses, and social conditions, and helping individuals, couples, families, groups, and community organizations enhance or restore their capacities for personal and social functioning and preventing and controlling social problems. Social work practice is the professional application of social work values, principles, and techniques in the following areas:

- (1) Information, resource identification and development, and referral services;
- (2) Preparation and evaluation of psychosocial assessments and development of social work service plans;
- (3) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
- (4) Administration, development, implementation, and evaluation of social work programs and policies;

- (5) Treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders;
- (6) Social work consultation;
- (7) Research through the formal organization and methodology of data collection and the analysis and evaluation of social work data practice; or
- (8) Clinical diagnosis or psychotherapy, or both, only if the practitioner is a licensed social worker who initially and triennially registers with the department and is granted permission to use the designation "C.S.W." or "clinical social worker" after providing proof of current certification by:
  - (A) The National Association of Social Workers as a qualified clinical social worker or diplomate in clinical social work; or
  - (B) The American Board of Examiners in Clinical Social Work as a board certified diplomate.

"Social worker" or "licensed social worker" means a person who:

- (1) Uses the title of "social worker";
- (2) Has met the licensing requirements set forth in this chapter; and
- (3) Who engages in the practice of social work as defined in this section.

**[§467E-2] Social worker licensing program.** There is established a social worker licensing program within the department to be administered by the director.

**[§467E-3] Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director shall have the following powers and duties:

- (1) Grant permission to a person to use the title of social worker in this State pursuant to this chapter and the rules adopted pursuant thereto;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out the provisions of this chapter;
- (3) Administer, coordinate, and enforce this chapter and rules adopted pursuant thereto;
- (4) Discipline a licensed social worker for any cause described by this chapter or for any violation of the rules, fine any government employee employed as a social worker for any cause described by this chapter, and refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a licensed social worker; and
- (5) Appoint an advisory committee consisting of licensed social workers to assist with the implementation of this chapter and the rules adopted pursuant thereto.

**[§467E-4] Fees; disposition.** (a) Application, examination, reexamination, license, renewal, late renewal penalty fees, and other reasonable and necessary fees relating to administration of this chapter, none of which are refundable, shall be as provided in rules adopted by the director pursuant to chapter 91.

(b) Fees assessed shall defray all costs to be incurred by the director to support the operation of the social worker licensing program. Fees collected shall be managed in accordance [with] section 26-9(1).

**[§467E-5] License required.** No person shall purport to be a "social worker", or "licensed social worker", or use the letters "S.W." or "L.S.W." in connection with the person's name, or use any words or symbols indicating or tending to indicate that the person is a social worker without meeting the applicable requirements and holding a license as set forth in this chapter.

**[§467E-6] Exemptions.** Licensure shall not be required of:

- (1) Any person doing work within the scope of practice or duties of the person's profession that overlaps with the practice of social work; provided the person does not purport to be a social worker or licensed social worker;
- (2) Any person employed by a federal, state, or county government agency in a social worker position but only at those times when that person is carrying out the duties and responsibilities as a social worker in governmental employment; and
- (3) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a degree in social work; provided that the student's activities and services are part of a prescribed course of study supervised by the educational institution, and the student is identified by an appropriate title such as "social work student", "social work intern", or any other title which clearly indicates the student's training status.

**§467E-7 Licensing requirements.** In addition to the licensing requirements provided by section 436B-11, the director shall consider the following as minimum evidence that an applicant is qualified to be licensed.

- (1) The applicant holds a master's degree from a college or university in a social work program accredited by or deemed to be equivalent to an accredited program by the Council on Social Work Education or a doctoral degree accredited by the Western Association of Schools and Colleges or a comparable regional accreditation body; and
- (2) The applicant has passed the national examination given by the Association of Social Work Boards.

**[§467E-7.5] Reciprocity and endorsement.** (a) The director may enter into reciprocity agreements with other states and issue a license to a social worker who has been licensed in that state; provided that the requirements for a license in the state that the applicant is licensed are deemed by the director to be equal or greater than the requirements for a license in this State at the date of the license.

(b) The director may also issue a license by endorsement by honoring a passing score on the examination of the Association of Social Work Boards; provided that the applicant meets

the other requirements under section 467E-7 and the passing score is from the examination category that the other state uses for its license.

**[§467E-8] Application for examination.** (a) Any person eligible for licensure who wishes to be licensed shall apply for examination to the director at least ninety days prior to the date of the examination, upon a form and in the manner that the director shall prescribe.

(b) Any application to the director shall be accompanied by a nonrefundable application fee.

(c) A person who fails an examination may apply for reexamination.

**§467E-9 Examination for license.** (a) Each applicant for licensure shall take and pass a written national examination administered by the Association of Social Work Boards in accordance with procedures and standards prescribed by the director.

(b) Applicants who have passed the Academy of Certified Social Workers examination administered by the National Association of Social Workers prior to June 30, 1995, shall be deemed to have satisfied the requirements of this section only if the application for licensure is filed with the department by June 30, 2000.

(c) The examination fee shall be paid by the applicant directly to the Association of Social Work Boards.

**[§467E-10] Issuance of license.** The director shall issue a license to any person who meets all licensure requirements and pays the appropriate fees.

**[§467E-11] Renewals.** Every license issued under this chapter shall be renewed triennially on or before June 30, with the first renewal deadline occurring on June 30, 1998. Failure to renew a license shall result in a forfeiture of the license. Licenses which have been so forfeited may be restored within one year of the expiration date upon payment of renewal and penalty fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license and relicensure may be subject to the person applying as a new applicant and satisfying again all licensing requirements.

**[§467E-12] Revocation, suspension, denial, or condition of licenses; fines.** (a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner any license, or fine any exempt government employee for any one or more of the following acts or conditions on the part of the applicant, licensee, or exempt person:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Being addicted to, dependent on, or being a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;

- (3) Practicing the profession of social work while impaired by alcohol, drugs, or mental instability;
  - (4) Procuring a social work license through fraud, misrepresentation, or deceit;
  - (5) Aiding and abetting an unlicensed person to directly or indirectly use the title "social worker" or "licensed social worker";
  - (6) Engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of social work;
  - (7) Engaging in conduct or practice contrary to recognized standards of ethics for the social work profession;
  - (8) Failing to comply, observe, or adhere to any law in a manner such that the director deems the applicant or holder to be an unfit or improper person to hold a social work license;
  - (9) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by this section;
  - (10) Having a criminal conviction, whether by nolo contendere or otherwise, of a crime directly related to the qualifications, functions, or duties of the social work profession;
  - (11) Failing to report in writing to the director any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;
  - (12) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under this chapter who purports to be a social worker or licensed social worker;
  - (13) Violating this chapter or any rules adopted pursuant thereto.
- (b) Any licensee who violates this section may also be fined not more than \$1,000 per violation.
- (c) After a hearing pursuant to chapter 91, any exempt government employee who violates this section may be fined not more than \$1,000 per violation.
- (d) The department shall have the authority to investigate, prosecute, and conduct administrative hearings regarding exempt government employees.

**§467E-13 Prohibited acts; penalties.** (a) No person shall:

- (1) Use in connection with the person's name any designation tending to imply that the person is a licensed social worker unless the person is duly licensed and authorized under this chapter;
  - (2) Represent oneself as a licensed social worker during the time the person's license issued under this chapter is forfeited, terminated, suspended, or revoked; or
  - (3) Perform clinical diagnosis or psychotherapy unless the person is:
    - (A) A licensed social worker; and
    - (B) Registered as a clinical social worker as provided by paragraph (8) of the definition of "practice of social work" in section 467E-1.
- (b) Any person who violates this section shall be subject to a fine of not more than \$1,000 and each day's violation shall be deemed a separate offense.

**[§467E-14] Consumer right of action.** Any person who suffers damage as a result of a violation of this chapter shall be entitled to injunctive relief restraining further violations and may sue to recover damages in any circuit court of the State, and, if successful, shall recover three times the actual damages or \$1,000, whichever is greater. In any action brought under this chapter, the prevailing party shall be entitled to the recovery of costs of suits, including reasonable attorney's fees.

**§467E-15 Privileged communication.** Communications between registered clinical social workers and their clients shall be treated in the same manner as provided for psychologist-client privilege under rule 504.1 of the Hawaii Rules of Evidence.